

# Sumter City-County Board of Appeals

February 10, 2010

**BOA-10-04, 1121 Manning Rd. (County)**

## I. THE REQUEST

**Applicant:** Sumter County

**Status of the Applicant:** Property Owner

**Request:** A 40 ft. rear setback variance as required by Article 3, Section D, Exhibit 2, to place an additional storage building at the Manning Rd. Fire Substation

**Location:** 1121 Manning Rd.

**Present Use/Zoning:** Fire Substation/General Residential (GR)

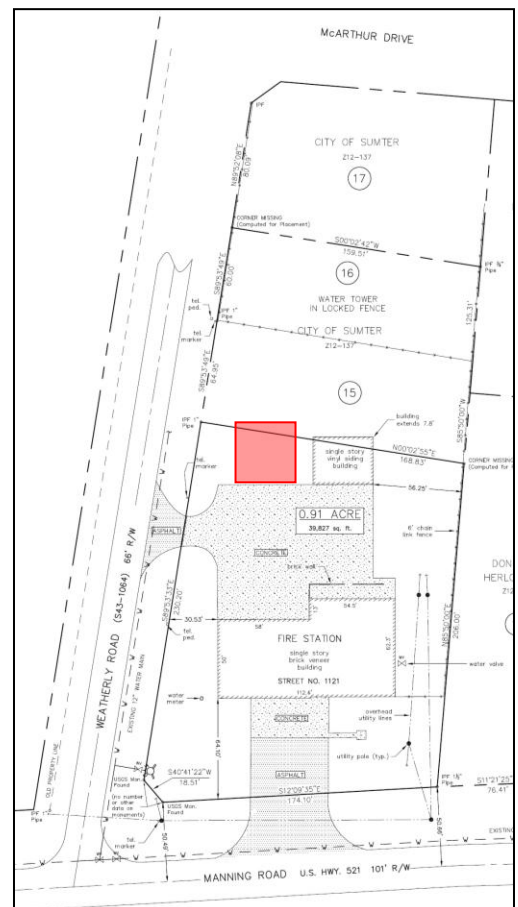
**Tax Map Reference:** 251-09-05-001

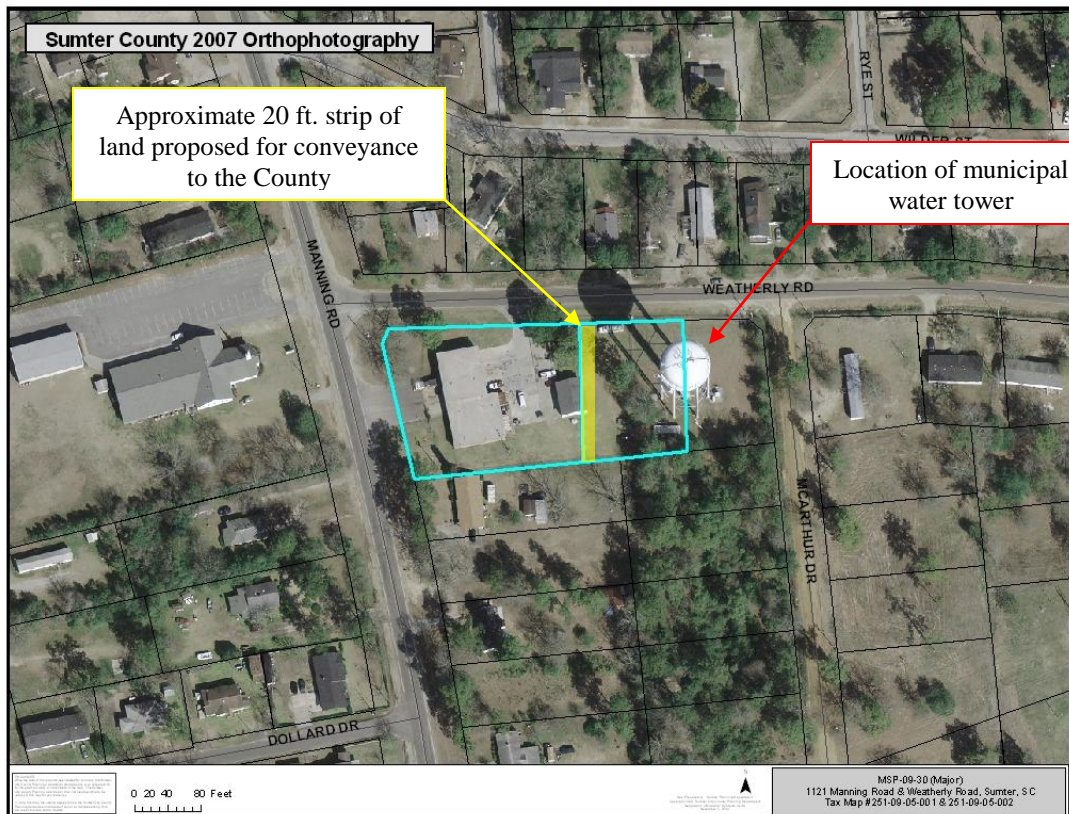
## II. BACKGROUND

The applicant, Sumter County, is requesting a 40 ft. rear setback variance to allow for the construction of a new 1280 sq. ft. storage building adjacent to the existing storage building on-site. This variance would reduce the required setback from 50 ft. to 10 ft. The subject property is the location of a fire substation with one storage building located to the rear of the main structure and associated paving.

According to the Sumter County Assessor's Property Card, the site was originally developed in 1976 with the last recorded changes on the property taking place around 1980, at that time it was believed that the outbuilding on-site was located entirely on County owned property. As part of the site plan review for MSP-09-30 it was discovered that the existing storage building straddles the common property line to the rear. The placement of the proposed additional building, identified by the red box in the graphic to the right, was approved by the Planning Commission on November 18, 2009 under MSP-09-30. This approval was granted with the understanding that the applicant would acquire the additional land necessary to meet the 50 ft. rear setback.

At time of major site plan approval the City and County were in the process of agreeing to the necessary transfer of land to allow for a 50 ft. rear setback, however; upon further review of the site the City determined they could only transfer 20 ft. of the abutting property to the County without compromising the utility of the remainder of the City's parcel of land, which is used as a staging area for water tower maintenance and repairs.





*Shown Above: The two parcels highlighted show the existing fire station parcel and the parcel to the west. As seen in the Orthophotography above, the parcel to the west is the location of a municipal water tower.*



*Pictured above: (Left) front view of fire station. The proposed structure is to be located behind the building not visible from Manning Rd. (Right) the grassed area to the left of the existing vinyl building is where the building is proposed to be located.*

Based on the setbacks regulations found in Article 3, Exhibit 2 *Development Standards for Uses in GR District* in the Sumter County Zoning & Development Standards Ordinance, non-residential uses in the GR district must adhere to the following setback standards:

**Minimum Yard Setbacks:**

- Front (Manning Rd.) – 45 ft.*
- Side (Interior) – 25 ft.*
- Side (Weatherly Rd.) – 12.5 ft.*
- Rear – 50 ft.*

In order for the Board of Appeals to grant a variance from the Zoning Ordinance, the proposed variance request must meet all four-parts of a State mandated four-part test. When reviewing a variance request, the Board may not grant a variance that would do the following:

- Allow the establishment of a use not otherwise permitted in a zoning district;
- Extend physically a nonconforming use of land;
- Change zoning district boundaries shown on the Sumter City-County Official Zoning Map.

The fact that a property may be utilized more profitably should a variance be granted shall not be considered grounds for approving a variance request.

### **III. FOUR-PART TEST**

**1. *There are extraordinary and exceptional conditions pertaining to the particular piece of property.***

The property was originally developed in 1976 with changes to the property in 1980, prior to any current zoning regulations. Currently the site is non-conforming with the existing storage structure to the rear of the parcel being located partially on an adjacent tract of land, which is not under the ownership of Sumter County. In addition, the applicant has proposed to construct an additional storage structure on the property to serve the fire station. The only available location for the additional structure is next to the existing storage building which encroaches over the existing parcel boundary.

The applicant has approached the adjacent property owner, the City of Sumter, about acquiring the additional land necessary to meet the 50 ft. rear setback. However the adjacent owner is only able to convey an additional 20 ft. of land due to existing site development restrictions.

**2. *These conditions do not generally apply to other property in the vicinity.***

Other property in the vicinity of this site has been developed as single-family residential or is being used for mobile homes. The two parcels that would be impacted by this request are both publically owned and being used for public purposes related to public safety and water. This site is unique in that although both parcels are zoned residential; neither is being used for a residential purpose which makes this property unique from its surroundings.

**3. *Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.***

Because the existing storage building straddles the rear property line, the site is already non-conforming with respect to the rear setback. Without a variance, the additional structure cannot be constructed and the existing building would still be straddling the City-County property line which does not meet current Ordinance standards.

**4. *The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the granting of the variance will not harm the character of the district.***

Granting the variance will allow the construction of the additional building while moving the parcel boundary so that the existing structure is entirely located on the County's property. Authorization of a

40 ft. rear setback variance in this situation will not harm the character of the district or be a detriment to adjacent property or the public good.

**IV. STAFF RECOMMENDATION**

Upon finding that the request meets all parts of the required four-part test, Staff recommends approval of BOA-10-04.

**V. DRAFT MOTIONS for BOA-10-04**

- A. I move that the Sumter Board of Appeals approve BOA-10-04, subject to the findings of fact and conclusions contained in draft order, dated February 10, 2010 attached as Exhibit 1.
- B. I move that the Sumter Board of Appeals deny BOA-10-04 on the following findings of fact and conclusions:
- C. I move that the Sumter Board of Appeals enter an alternative motion for BOA-10-04.

**VI. ZONING BOARD OF APPEALS – FEBRUARY 10, 2010**

The Sumter City-County Board of Appeals at its meeting on Wednesday, February 10, 2010, voted to approve this request, based on the findings of fact and conclusions on exhibit 1.

**Exhibit 1**  
**Order on Variance Application**  
**Sumter Board of Appeals**

**BOA-10-04, 1121 Manning Rd. – Sumter County Fire Substation**  
**February 10, 2010**

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Date Filed: February 10, 2010

Permit Case No. BOA-10-04

The Sumter Board of Appeals held a public hearing on Wednesday, February 10, 2010 to consider the appeal of Sumter County, 13 E. Canal St., Sumter, SC 29150 for a variance from the strict application of the City Zoning Ordinance as set forth on the Form 3 affecting the property described on Form 1 filed herein. After consideration of the evidence and arguments presented, the Board makes the following findings of fact and conclusions.

1. The Board concludes that the Applicant ☒ **has** - ☐ **does not have** an unnecessary hardship because there are extraordinary and exceptional conditions pertaining to the particular piece of property based on the following findings of fact:

The property was originally developed in 1976 prior to the current zoning regulations. The site is non-conforming with the existing storage structure to the rear of the parcel being located partially on an adjacent tract of land not under the ownership of Sumter County. In addition, the applicant has proposed to construct an additional storage structure on the property to serve the fire station. The only available location for the additional structure is next to the existing storage building which encroaches over the existing parcel boundary.

2. The Board concludes that these conditions ☐ **do** - ☒ **do not** generally apply to other property in the vicinity based on the following findings of fact:

Property in the vicinity of this site has been developed as single-family residential or is being used for mobile homes. The two parcels impacted by this request are both publically owned and being used for public purposes related to public safety and water. This site is unique because both parcels are zoned residential but not being used for a residential purpose and must comply with non-residential development standards.

3. The Board concludes that because of these conditions, the application of the ordinance to the particular piece of property ☒ **would** - ☐ **would not** effectively prohibit or unreasonably restrict the utilization of the property based on the following findings of fact:

The existing storage building straddles the rear property line. The site is already non-conforming with respect to the rear setback. Without a variance the existing structure cannot be moved onto the County's property, nor can the additional structure be constructed.

4. The Board concludes that authorization of the variance ☐ **will** - ☒ **will not** be of substantial detriment to adjacent property or to the public good, and the character of the district ☐ **will** - ☒ **will not** be harmed by the granting of the variance based on the following findings of fact:

Granting the variance will allow the construction of the additional building while moving the parcel boundary so that the existing structure is entirely located on the County's property. Authorization of a 40 ft. rear setback variance in this situation will not harm the character of the district or be a detriment to adjacent property or the public good.

THE BOARD, THEREFORE, ORDERS that the variance is ☐ **DENIED** – ☒ **GRANTED**, subject to the following conditions:

Approved by the Board by majority vote.

Date issued: \_\_\_\_\_

\_\_\_\_\_  
Chairman

Date mailed to parties in interest: \_\_\_\_\_

\_\_\_\_\_  
Secretary

**Notice of appeal to Circuit Court must be filed within 30 days after date this Order was mailed.**